

Exhibit 1

PHILIP STEWART, PER RESP OF ES vs. STEVEN RAY HIGGINS

LINE DATE ACTION

1 03/11/13 COMPLIANT/SUMMONS/
2 POS-STEVEN HIGGINS-ATTY TO SERVE- SOS ACCPT 3/14/13-
3 -
4 POS-ERIE INS CO.-ATTY TO SERVE- SOS ACCPT 3/14/13-
5 -

CASE INFORMATION STATEMENT - CIVIL CASES

In the Circuit Court, Mason County, West Virginia

I. CASE STYLE:

Plaintiff(s):

Philip Stewart, Personal Representative
of the Estate of LaDonna Stewart, deceased,

CASE NO: 13-C-39-E

vs.

Defendant(s):

Days to Type of

Steven Ray Higgins
SERVE: 42994 State Rt. 124
Pomeroy, OH 45769

Answer Service
30 SOS
(non resident motorist)

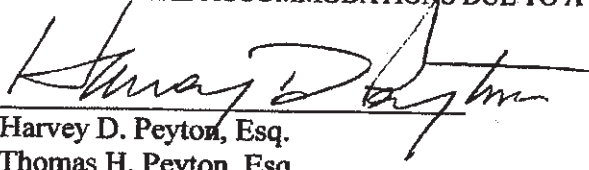
Erie Insurance Company
SERVE: James J. Tanous
100 Erie Insurance Place
Erie, PA 16530

30 SOS

II. TYPE OF CASE: Personal Injury

III. JURY DEMAND: Yes
CASE WILL BE READY FOR TRIAL BY: March 6, 2014

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE
SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? No


Harvey D. Peyton, Esq.
Thomas H. Peyton, Esq.
Peyton Law Firm, PLLC
2801 First Avenue
Post Office Box 216
Nitro, West Virginia 25143
(304) 755-5556

Representing: Plaintiff

Dated: March 11, 2013

BILL WHITEHEAD
MASON CO CIRCUIT CLERK

2013 MAR 11 PM 2:16

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IN THE CIRCUIT COURT OF MASON COUNTY, WEST VIRGINIA

**PHILIP STEWART, PERSONAL REPRESENTATIVE
OF THE ESTATE OF LADONNA STEWART, DECEASED,**

PLAINTIFF,

v.

**CIVIL ACTION NO. _____
JUDGE _____**

**STEVEN RAY HIGGINS AND
ERIE INSURANCE COMPANY,
DEFENDANTS.**

COMPLAINT

Plaintiff, for cause of action against the above-named defendants, states as follows:

1. Philip Stewart is a citizen and resident of the State of West Virginia, residing at 298 Mattox Drive, West Columbia, Mason County, West Virginia; he is the personal representative of the Estate of LaDonna Stewart having been appointed to that capacity by the County Commission of Mason County, West Virginia; his appointment as personal representative of the Estate of LaDonna Stewart remains in full force and effect as of the date of the commencement of this action.
2. Steven Ray Higgins is a citizen and resident of the State of Ohio; at all times relevant herein Steven Ray Higgins resided at 42994 State Rt. 124, Pomeroy, Ohio.
3. Erie Insurance Company is a corporation maintaining its principal office and place of business at 100 Erie Insurance Place, Erie, Pennsylvania; at all times relevant to this action Erie Insurance Company was a corporation organized and existing pursuant to the laws of the State of Pennsylvania and authorized to conduct business in the State of West Virginia.

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MASON CO. CIRCUIT CLERK

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4. On May 3, 2011, at approximately 4:20 p.m., on a public highway known as West Virginia Route 62, in West Columbia, Mason County, West Virginia, Steven Ray Higgins wantonly, dangerously, negligently, carelessly, in violation of West Virginia law and in gross disregard of the lives and safety of the travelling public, operated a 1997 Nissan pickup in such a manner as to cause that vehicle to crash into the rear end of a 2000 Ford Explorer automobile owned and operated by LaDonna Stewart, forcing the said Stewart vehicle into the path of oncoming traffic, which said wrongful act, neglect, or default of Steven Ray Higgins directly and proximately caused the death of LaDonna Stewart to occur.

5. At the time of her death, LaDonna Stewart left the following survivors who may be entitled to share in a distribution of an award for damages as set forth in *W. Va. Code* Chapter 55, Article 7, Section 6(b):

- A. Her husband, Philip Stewart;
- B. One daughter, namely Chelsea Dawn Stewart;
- C. One son, namely Brandon Andrew Stewart;
- D. Her father, James Howard Bennett, Jr.;
- E. Her mother, Phyllis Jean Bennett;
- E. Her sister, Amanda Natasha Durham; and
- F. Her brother, James Howard Bennett, III,

6. As a further direct and proximate result of the wrongful acts, neglect and default of Steven Ray Higgins as aforesaid, and the death of LaDonna Stewart that resulted therefrom, damages have been incurred for the wrongful death of LaDonna Stewart which include, but may not be limited to the following elements of damages set forth in *W. Va. Code* Chapter 55, Article 7 Section 6(c)(1):

- A. Sorrow, mental anguish and solace which may include society, companionship, comfort, guidance, kindly offices and advice of the decedent;

- B. Reasonably expected loss of income of the decedent in an amount not less than \$1,500,000.00;
- C. Reasonably expected services, protection, care and assistance provided by the decedent in an amount not less than \$500,000.00; and
- D. Reasonable funeral expenses in an amount not less than \$12,575.63.

7. In addition to the foregoing, Steven Ray Higgins is liable to the Plaintiff for an award of punitive or exemplary damages in an amount sufficient to punish and chastise Steven Ray Higgins for his conduct relative to the death of LaDonna Stewart and to deter such conduct from other similarly situated defendants in the future.

8. On May 3, 2011, Philip Stewart and his deceased wife, LaDonna Stewart, maintained a policy of insurance coverage numbered Q04 6506994 issued by Erie Insurance Company on motor vehicles owned by them or in their household which said coverage included uninsured motorist coverage in the amount of not less than \$50,000.00; Erie Insurance Company has denied the existence of this coverage in the matter of this case and in doing so has breached the aforesaid insurance contract; Erie Insurance Company is, therefore, named as a defendant herein to perfect the claims of Philip Stewart for such uninsured motorist insurance benefits.

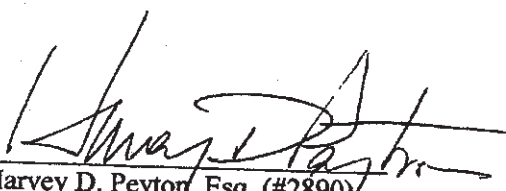
WHEREFORE, Philip Stewart respectfully prays that he have judgment against Steven Ray Higgins in favor of the Estate of LaDonna Stewart for the following damages:

1. Compensatory damages as it may be deemed will fully and fairly compensate the persons injured by the wrongful acts of Steven Ray Higgins;
2. An award of exemplary or punitive damages to punish and chastise Steven Ray Higgins for his deliberate and willful, illegal and unlawful acts in causing the accident and death which are the subject of this action;
3. Philip Stewart further prays that he be awarded damages against Erie Insurance Company in an amount equal to the uninsured motorist benefits due under the aforesaid policy, together with his attorney fees and costs associated with recovery of the same;
4. Interest on all damages at the lawful rate from the date this cause of action arose until the date of payment .

Plaintiff demands a trial by jury upon all issues so triable herein.

PHILIP STEWART,
PERSONAL REPRESENTATIVE OF THE
ESTATE OF LADONNA STEWART,
DECEASED

BY COUNSEL



Harvey D. Peyton, Esq. (#2890)
Thomas H. Peyton, Esq. (#8841)
The Peyton Law Firm
P. O. Box 216
2801 First Avenue
Nitro, WV 25143
Telephone: (304) 755-5556
Telefax: (304) 755-1255
Counsel for Plaintiff

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MASON CO. CIRCUIT CLERK

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SUMMONS

IN THE CIRCUIT COURT OF MASON COUNTY, WEST VIRGINIA

PHILIP STEWART, PERSONAL REPRESENTATIVE
OF THE ESTATE OF LADONNA STEWART, DECEASED,

PLAINTIFF,

v.

CIVIL ACTION NO. 13-C-39-E
JUDGE Thomas E. Elum

ERIE INSURANCE COMPANY,
SERVE: Erie Insurance Company
c/o James J. Tanous
100 Erie Insurance Place
Erie, PA 16530

DEFENDANTS.

TO THE ABOVE-NAMED DEFENDANT:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Harvey D. Peyton, Esq., Plaintiff's attorney, whose address is Peyton Law Firm, PLLC, Post Office Box 216, Nitro, West Virginia 25143, an answer, including any related counterclaim or defense you may have to the complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within thirty (30) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: 3/11/13

Bill J. Elum
CLERK OF COURT

BY: John R. Elum, Deputy

S U M M O N S

IN THE CIRCUIT COURT OF MASON COUNTY, WEST VIRGINIA

PHILIP STEWART, PERSONAL REPRESENTATIVE
OF THE ESTATE OF LADONNA STEWART, DECEASED,

PLAINTIFF,

v.

CIVIL ACTION NO. 13-C-39-E
JUDGE Thomas E. Evans, III

STEVEN RAY HIGGINS,
non resident motorist

SERVE: Steven Ray Higgins
42994 State Rt. 124
Pomeroy, Ohio 45769

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Dated: 4/11/13

Bill Cressler
CLERK OF COURT
BY: Robert J. [Signature], Deputy